

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Robert E. & Jacquelyn Cunningham)
 Ward 072, Block 067, Parcel 00010) Shelby County
 Residential Property)
 Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$9,900	\$60,000	\$69,900	\$17,475

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 27, 2007 in Memphis, Tennessee. In attendance at the hearing were Robert Cunningham, the appellant, and Shelby County Property Assessor's representative Jonathan Jackson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 42 year old rental home located at 3193 Rangeline in Memphis.

The taxpayer contended that subject property should be valued at \$51,000. In support of this position, the taxpayer testified that subject property was originally appraised by the assessor of property under the assumption it contained 1,800 square feet. According to Mr. Cunningham, a subsequent remeasurement by the assessor indicated subject residence has 1,400 square feet of living area, but the appraisal decreased by only \$300.00.

Mr. Cunningham testified that in his opinion subject property should be appraised at \$51,000 based upon the fact it rents for \$550 per month. Mr. Cunningham also noted that the home next door sold for \$51,000 or \$52,000 after being on the market for seven years.

The assessor contended that subject property should remain valued at \$69,900. In support of this position, a spreadsheet summarizing three comparable sales was introduced into evidence. Mr. Jackson maintained that the comparables support a value indication of \$78,000. Accordingly, Mr. Jackson recommended affirmation of the current appraisal. With respect to the square footage, Mr. Jackson testified that the appraiser who remeasured subject residence indicated it contains 1,511 square feet of living area. Mr. Jackson utilized this figure in his analysis.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$69,900 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the taxpayer did not introduce a cost, sales comparison or income approach into evidence. The administrative judge finds that no evidence was introduced to explain how the rental rate of \$550 per month supports the taxpayer's contended value of \$51,000.¹ The administrative judge finds that little, if any, meaningful evidence was offered with respect to the sale of the neighboring home. For example, there is nothing in the record to even establish the size of the home or when it actually sold.

With respect to the square footage of subject home, the administrative judge finds that both parties have relied on unsubstantiated hearsay. The administrative judge finds that the appraiser who remeasured subject home was not present to testify nor was any type of sketch introduced into evidence. The administrative judge must presume that the current square footage (1,511) reflected in the assessor's records is correct.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$9,900	\$60,000	\$69,900	\$17,475

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."**

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of


¹ Typically, the income approach is not even relevant to the valuation of a single family residence if owner-occupancy constitutes the highest and best use. See *Jacqueline R. Davis* (Administrative Judge, Shelby Co., Tax Year 1991).

Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of March, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Robert Cunningham
Tameaka Stanton-Riley, Appeals Manager